

REMARKS/ARGUMENTS

Claims 1, 3, 4, 6, 10, 12-14 and 17 are rejected under 35 U.S.C. 112, first paragraph, because the temperature range of “185°C to 215°C” and the whiteness range of “greater than about 73.0” are not specifically recited in the specification. They need not be. A temperature range of 120°C to 215°C and a whiteness range greater than 69.0 are provided in the specification. The claimed temperature ranges and whiteness range are within these disclosed ranges. That is all that is required.

That what applicants claim as patentable to them is less than what they describe as their invention is not conclusive if their specification also reasonably describes that which they do claim. Inventions are constantly made which turn out not to be patentable, and applicants frequently discover during the course of prosecution that only a part of what they invented and originally claimed is patentable. *Application of Wertheim* 191 U.S.P.Q. 90 (CCPA. 1976). In Wertheim the disclosure was 25 to 60 % and the claim was 35 to 60%. It was held that the specification disclosed the claimed invention.

The claimed ranges are disclosed in a manner supported by the courts.

Claims 1, 3, 4, 6, 10, 12-14 and 17 are rejected under 35 U.S.C. 103(a) as unpatentable over Hansen et al U.S. 5,589,256.

The rejection is based first on the 112 rejection noted above. As stated above that rejection is not supported by the cases.

The rejection also states the temperature cannot impart patentability. This rejection relies on *In re Mostovych* and *In re Aller*. Both cases are optimization cases in which the question was whether finding optimum conditions imparted patentability or whether these conditions were within the skill of one of ordinary skill in the art.

That is not the question here. Hansen et al was concerned about scorching and discoloration of the material above 180°C. The office action points to line 64 of column 40 in which the curing temperature range is “about 140°C to about 180°C “ but in example 26 Hansen et al stated the curing temperature range was “140°C to 180°C “. There is a reason for this clarification. Hansen et al wish to avoid scorching and discoloration (column 40, lines 66 and column 41, 7). Scorching and discoloration are problems in the manufacture of crosslinked fiber. Scorching and discoloration are costly. The fibers go directly from curing to baling into bales. The main use of crosslinked fibers is in absorbent products such as diapers. Scorched and discolored fibers are not desirable in these products. They are the subject of customer complaints, refunds and returns. Scorching and discoloration are to be avoided.

Consequently, this is not a question about finding an optimum range for whiteness but whether one can operate in a range above that disclosed by Hansen et al and not have scorching and discoloration. One of ordinary skill in the art would have no need to go above the curing temperature range of Hansen et al because Hansen et al has provided a curing temperature range that works. Hansen et al have also provided a reason for not going above 180°C.

There is no *prima facie* case.

Claims 1 and 5-11 are rejected under 35 U.S.C. 103(a) as unpatentable over Hansen et al U.S. 5,589,256 in view of Hansen et al U.S. 5,788,326. The Hansen et al '326 patent is cited for sorbitol.

Hansen et al '326 does not cure the deficiencies of Hansen et al '256..

There is no *prima facie* case.

Applicant wishes to call Examiner's attention to application 10/748,977 directed to the product which is also being examined in Art Unit 1623. It is also under a final rejection.

CONCLUSION

Reconsideration and allowance of the claims presently in the application is respectfully requested.

Respectfully submitted,
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